



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

DAQ-041-15

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Jay Morris, Minor Source Compliance Section Manager

DATE: August 13, 2015

SUBJECT: R.N. Industries Incorporated Early Settlement Agreement

R.N. Industries Incorporated operates the Bluebell Disposal Facility, an oilfield disposal service with waste water evaporation ponds, located near Duchesne, Utah. On August 13, 2013, the Division of Air Quality (DAQ) sent R.N. Industries Incorporated a compliance advisory for failing to submit a notice of intent and receive an approval order prior to construction [UAC R307-401-5(1)] based on information received in a voluntary self-disclosure and environmental self-evaluation from the facility. The DAQ and R.N. Industries Incorporated have negotiated an early settlement of \$84,000. Of that amount, \$42,000 will be deferred for two years. If R.N. Industries Incorporated does not violate the provisions of the settlement, the Act, Rules, or Orders issued by the Director, this amount will be waived. The remaining \$42,000 will be paid in \$3,500 increments with the first payment due within 20 business days from the date of the Board's approval of this settlement. The remaining penalty is to be paid within 30 days from the previous payment for the following 11 months. The company has agreed to the terms and conditions of the agreement and submitted a signed copy to the DAQ.

In accordance with Utah Code Ann. 19-2-104(3)(b)(i), this memorandum is provided to the Board for review since the penalty exceeds \$25,000. The signed early settlement agreement is provided. The DAQ will withhold any further action on this case until the Board approves or disapproves the settlement.

Staff Recommendation: Staff recommends that the Board approve the penalty amount and early settlement offer.



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Acting Executive Director

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Bryce C. Bird
Director

DAQC-753-15
Site ID: 14605 (B1)

June 5, 2015

Sent Via Certified Mail No. 70042510000375564382

Chance Massey, President
RN Industries, Inc.
188 West 200 North
Roosevelt, Utah 84066

Dear Mr. Massey:

Re: Revised Early Settlement Agreement – RN Industries, Inc.

On August 13, 2013, the Utah Division of Air Quality (DAQ) issued a Compliance Advisory to RN Industries, Inc., as a result of information submitted after a Voluntary Self Disclosure and Environmental Self Evaluation for the Bluebell Disposal Facility located near Roosevelt, Utah. RN Industries, Inc. responded to the Compliance Advisory by requesting a meeting on August 28, 2013, and submitting a request for an additional 60 days to complete a revised Notice of Intent (NOI). The 60 day extension was granted by the DAQ. A revised NOI was not received by the deadline of October 28, 2013. On December 13, 2013, the DAQ met again with RN Industries, Inc. and agreed to an additional 90 day extension for the NOI submittal. RN Industries, Inc. did not submit an NOI within 90 days. On September 11, 2014, after numerous requests for information, the DAQ sent an e-mail to RN Industries, Inc. requesting a timeline for submittal of a complete revised NOI to be submitted by October 11, 2014. No response was received by that date. A third meeting (telephone conference) was held on December 18, 2014, at which time RN Industries, Inc. agreed to submit a complete NOI by mid-February 2015. The NOI was not received at the DAQ until March 13, 2015.

Based on the above information and initial response to the Compliance Advisory, the DAQ determined that RN Industries, Inc. was, and still is, in violation of Utah Administrative Code (UAC) R307-401-5(1) for not submitting a complete NOI and receiving an Approval Order (AO) prior to initiation of construction and/or operation of an air emission producing facility.

RN Industries, Inc. initially submitted information on its facility through the Environmental Self Evaluation Act (ESEA). The ESEA states that entities taking advantage of the self-disclosure program must correct and remedy disclosed violations within 60 days from the date of discovery or within a reasonable amount of time if the violation cannot be remedied within 60 days. This violation was not corrected within a reasonable time frame and has not been corrected to date. Section 19-2-115 of the Utah Code Annotated provides that violations of the Utah Air Conservation Act and/or any order issued

thereunder may be subject to a civil penalty of up to \$10,000 per day for each violation. Based upon our civil penalty policy, we calculated a preliminary civil penalty for the above listed violation of \$84,000.00. RN Industries, Inc. may be subject to additional civil penalties of up to \$10,000 per day for each violation until an Approval Order is issued by the DAQ.

The monetary amount of the DAQ settlement offer specified below is derived from a pre-established schedule of penalties, which takes into account, among other factors, the magnitude and severity of the violation, economic benefit, cooperation of the source as well as the prior history of violations. See the attached penalty worksheet for details.

All parties we deal with, whether private, commercial, or governmental are treated similarly in the settlement process. Settlement offers are based on the evaluation of the same factors and criteria in all cases. The DAQ acknowledges that the violation on July 29, 2013, was addressed by RN Industries, Inc. by a NOI.

If you are interested in settling this violation, we are authorized to offer settlement in accordance with the DAQ Penalty Policy as follows:

1. RN Industries, Inc. agrees to pay a civil penalty in the sum of \$84,000.00. Payment of a civil penalty precludes further civil enforcement for the above described violation against the named source. RN Industries, Inc. agrees to pay \$42,000.00 of the stipulated penalty. The remaining \$42,000.00 of the stipulated penalty shall be immediately due and payable if RN Industries, Inc., at any of its operations within the State, violates the provisions of this Agreement, the Act, Rules, or Orders issued by the Director (Orders) within two years following the date of this Agreement. However, if RN Industries, Inc. does not violate this Agreement, the Act, Rules, or Orders within the next two years, the remaining \$42,000.00 of the stipulated penalty shall be waived. Of the \$42,000.00 stipulated penalty, RN Industries, Inc. agrees to pay \$3,500.00 within 20 business days from the date of the Utah Air Quality Board (UAQB) approval. The remaining \$38,500.00 penalty will be paid in \$3,500.00 increments within thirty days from the previous payment for the following 11 months.
2. The DAQ retains its authority to take any enforcement actions based on any and all violations not specifically described above.
3. In the event any further violations of the Utah Air Quality Rules occur, the DAQ may consider the violation described above in assessing a penalty for the subsequent violations, in accordance with the provisions of Utah Administrative Code R307-130.
4. Entering into this settlement shall not constitute an admission of violation of the Utah Air Quality Rules, nor shall it be inferred to be such an admission in any administrative or judicial proceeding. The described violation will constitute part of the company compliance history for any purpose for which such history is relevant to the DAQ.

At the DAQ's option, you may request a portion of the calculated civil penalty gravity component to be used to complete a Supplemental Environmental Project (SEP) to benefit present and future air quality within Utah. For more information about the SEP process, please contact the DAQ representative listed below.

This letter constitutes an offer of settlement and is not a demand for payment. If the above terms are acceptable to you, please sign and return this Early Settlement Agreement to the DAQ at the letterhead

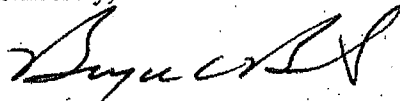
address within twenty (20) business days of receipt of this letter. Utah Code 19-2-104(3)(b)(i), requires the Utah Air Quality Board (UAQB) to review and approve/disapprove any settlement negotiated by the Director that results in a civil penalty of \$25,000 or more in accordance with Subsection 19-2-107(2)(b)(viii). The DAQ will present this to the UAQB at an upcoming board meeting for review and will recommend approval of the negotiated settlement.

You may write or call to request a settlement conference with DAQ representative listed below. A conference must be scheduled within twenty (20) business days of your receipt of this Early Settlement Offer. If we do not receive a signed copy of this letter and payment or other correspondence from you within twenty (20) business days of your receipt of this letter, we will assume that you are not interested in resolving this matter as outlined above.

This Early Settlement Agreement is intended to quickly resolve the non-compliance issues listed above and requires the immediate attention of your company. Failure to resolve this matter as outlined in this letter may result in this offer being revoked and/or having this matter referred to a formal enforcement process.

If you have any additional questions regarding this matter, please contact Jay Morris at (801) 536-4079 or by email at jpmorris@utah.gov.

Sincerely,



Bryce C. Bird
Director

BCB:JPM:bp

cc: Tri-County Health Department

Acceptance of Early Settlement Agreement

I have read the above Early Settlement Agreement and I agree to the terms and conditions thereof.

RN Industries, Inc.

Name: Glenn Todd

Title: Senior Controller

Glenn Todd
Signature

June 12, 2015
Date

801-849-8128
Telephone Number